

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRIAN HARRISON JONES, Sr.,

Defendant-Petitioner,

v.

UNITED STATES OF AMERICA,

Plaintiff-Respondent.

No. 2:20-cv-01863-RAJ

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

I. INTRODUCTION

On May 8, 2023, the United States Court of Appeals for the Ninth Circuit issued a notice explaining that Petitioner’s appeal would be stayed pending this Court’s determination on the certificate of appealability. Dkt. # 13.

The specific order upon which this latest appeal is based is this Court’s February 16, 2023 Order denying Petitioner’s motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (“Section 2255”). Dkt. # 10. The Court determined that Petitioner’s claims for prosecutorial misconduct were without merit. Similarly, the Court determined that his claims of ineffective assistance of counsel did not meet the requisite element required under *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

A certificate of appealability may issue only if the “applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The

1 certificate must also “indicate which specific issue or issues satisfy [that test].” 28 U.S.C.
2 § 2253(c)(3). An applicant makes a substantial showing if they demonstrate that their
3 petition involves issues which are debatable among reasonable jurists, that a court could
4 resolve the issues differently, or that the issues are adequate enough to deserve
5 encouragement to proceed further. *See Dawson v. Mahoney*, 451 F.3d 550, 551 (9th Cir.
6 2006) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

7 The court has reviewed the record filed in this matter and finds that Petitioner has
8 not met his burden. Since Petitioner has not made a substantial showing of the denial of a
9 constitutional right, the motion for certificate of appealability is, therefore, **DENIED**.

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11 DATED this 1st day of June, 2023.

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14 The Honorable Richard A. Jones
15 United States District Judge
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